

## **Exhibit B**



## SUMMARY

### Uniform Residential Mortgage Satisfaction Act

The securitization of mortgage obligations has vastly complicated the process of clearing title for residential real estate when a mortgage is fully paid. The mortgagee who provides the purchase money to the landowner is almost never the entity which holds the mortgage at the time it is paid off. This is an artifact of the secondary mortgage market that has developed over the decades preceding 2004, the year the Uniform Residential Mortgage Satisfaction Act (URMSA) has been promulgated.

When a mortgage is paid off, the mortgagee (secured creditor in URMSA) generally owes the landowner two things. First, a document called a payoff statement that provides the landowner proof that the mortgage amount has been paid off. Second, the secured creditor is also obligated to record a statement that establishes the mortgage is satisfied in the land records. The statement makes it clear to subsequent purchasers and their secured creditors that the title is clear of the mortgage obligation. In this era of remote secured creditors, the timely transmittal of payoff statements and recording of mortgage satisfactions has become more problematic. There is a cost to the landowner, particularly if the landowner has paid off the mortgage in order to sell the real estate to another person. If his or her secured creditor is tardy in providing payoff statements or recording mortgage satisfactions, the sale cannot go forward.

There are responses in the law of most states to this problem, but that state law has no semblance of uniformity. This means that the cost of compliance in what is clearly an interstate, national market for mortgage money rises for secured creditors. They must be prepared to meet different requirements in each and every state.

A uniform act is an appropriate remedy for the dual problem of transactional costs due to tardy payoff statements and satisfactions, and costs of compliance for secured creditors due to the large differences in state law. The Uniform Residential Mortgage Satisfaction Act was promulgated by the National Conference of Commissioners on Uniform State Laws in 2004 to satisfy the dual problem of mortgage satisfactions.

URMSA provides the landowner or other entitled person with the right to request a payoff statement and requires secured creditors to record mortgage satisfactions. A request for a payoff statement must be in the form of a "notification." It may be transmitted to the secured creditor by first-class mail or other commercially reasonable delivery service. If there is agreement between the sender and the recipient of "notification" to do so, it may be transmitted by electronic means, including facsimile or e-mail. Upon notification, the secured creditor has 30 days to comply with the request or be liable for damages. A mortgage satisfaction must be recorded within 30 days of the day the mortgage is paid or the secured creditor may face liability for damages. Damages are limited to actual damages plus \$500.00 in either case. Punitive damages are disallowed. There may be attorney fees also for a payoff statement, if damages plus penalty are not paid upon demand. Attorney fees are also available if an action is brought for failure to record a mortgage satisfaction.

URMSA also provides a self-help title-clearing remedy to a person entitled to the recording of a mortgage satisfaction. An "Affidavit of Satisfaction" may be filed by a "Satisfaction Agent" if the secured lender neglects to file a mortgage satisfaction within the 30 day period. A "satisfaction agent" may be either a title insurance company or a licensed attorney. The satisfaction agent acts under the authority of the landowner. Only a title insurance company or licensed attorney may act as a satisfaction agent because of the liability potential for recording the affidavit. Their expertise and financial soundness provide a sense of security for the secured creditor and the landowner that the Affidavit will be correct and recorded correctly. The contents of payoff statements, mortgage satisfactions and affidavits of satisfaction are very particularly established in URMSA. This encourages uniformity of documentation, which is particularly important for recording in the land records. There is a specific form for mortgage satisfactions in URMSA. Using the form guarantees that it may be recorded, and that it may not be rejected when presented to recording officers. URMSA encourages the establishment of national standards and forms for recording satisfactions.

URMSA also provides for a "Document of Rescission" with which a secured creditor may rescind an erroneous recording of a mortgage satisfaction, and thereby limit potential liability that may result from the error. A secured creditor also has the ability to limited liability for providing an understated payoff statement by tendering a correction. URMSA also provides the secured creditor with a defense against liability for events beyond the secured creditor's control that prevent it from meeting notification requirements.

The Uniform Residential Mortgage Satisfaction Act would replace bits and pieces of legislation that exist in many states. It would establish a uniform system of dealing with payoff statements and mortgage satisfactions, nationally. By so doing, it will encourage timely satisfactions and eliminate costs to all parties to residential real estate transactions. The states should consider its enactment as expediently as possible.

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